

*A/R* ~~Reissue~~ \$

**REISSUE PATENT APPLICATION**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: James F. Pitzen, *et al.*

Examiner:

Patent No.: 5,792,573

Group Art Unit: 1714

Assignee: Linvatec Corporation

Filed: July 24, 1996

Docket No. 54525.000055

Title: **Rechargeable Battery Adapted to be  
Attached to Orthopedic Device**

**TRANSMITTAL OF A CONTINUATION APPLICATION**

Assistant Commissioner for Patents  
**BOX REISSUE**  
Washington, D.C. 20231

~~The PTO did not receive the following  
listed item(s)~~

Sir:

This continuation application of Reissue Application Serial No. 09/637,339 is being filed under 37 C.F.R. § 1.53(b), and under 37 C.F.R. § 1.78(a)(1)(iii), which permits continuations to be filed when the parent application is entitled to a filing date as set forth in §1.53(b), and includes the basic filing fee set forth in §1.16. This continuation application includes the following:

1. Reissue Application including Specification, Claims, Abstract, and a copy of the drawings;
2. Preliminary Amendment Adding Broader Claims 13-35;
3. Reissue Declaration of James F. Pitzen, Jeffrey D. Smith, and Charles E. Alexson;
4. Certificate Under 37 C.F.R. § 3.73(b) and Consent of Assignee Under 37 C.F.R. § 1.172;
5. Request for Transfer of Drawings from Original Patent to Reissue Application with attached drawings;
6. Offer to Surrender Pursuant to 37 C.F.R. § 1.178;
7. Basic Filing Fee Calculation pursuant to 37 C.F.R. §§ 1.16(h), (I), and (j);

7. Reissue Declaration of James F. Pitzen, Jeffrey D. Smith, and Charles E. Alexson filed in parent application Serial No. 09/637,339;
8. Certificate Under 37 C.F.R. § 3.73(b) and Consent of Assignee Under 37 C.F.R. § 1.172;
9. Request for Transfer of Drawings from Original Patent to Reissue Application with attached drawings;
10. Offer to Surrender Pursuant to 37 C.F.R. § 1.178;
11. A check in the amount of \$2,784.00 cover the basic filing fee calculation and the extension of time fees. The Commissioner is authorized to charge any additional fees needed to consider this request, or credit any overpayment to Deposit Account No. 50-0206; and
12. Return Receipt Postcard.

Applicants hereby respectfully request that this Continuation application be filed, and accorded the benefit of the filing date of the parent Reissue patent Application Serial No. 09/637,339, which is August 11, 2000.

Respectfully submitted,

3/5/01

Date



Patrick A. Doody  
Registration No. 35,022

HUNTON & WILLIAMS  
1900 K. St., N.W.  
Washington, D.C. 20006  
(202) 955-1906



Attorney Docket No. 54525.000055

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

REQUEST FORM FOR FILING CONTINUING APPLICATION  
UNDER 37 C.F.R. § 1.53(b)

Attorney Docket Number **54525.000055**  
Anticipated Classification Of This Application:  
Class D13 Subclass 103

Prior Application: 09/637,339  
Examiner:  
Art Unit: 1741

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

This is a request for filing a ☒ continuation ☐ divisional  
application under 37 C.F.R. § 1.53(b) of prior Application Serial No. 09/637,339, filed August 11, 2000, entitled  
**Rechargeable Battery Adapted to be Attached to Orthopedic Device** by the following named inventor  
James F. Pitzen, Jeffrey D. Smith, and Charles E. Alexson.

1. ☒ Enclosed is a true copy of the prior complete application as originally filed, with a new oath or declaration. No amendments referred to in the oath or declaration filed to complete the prior application introduced new matter therein.
2. ☐ Preliminary Amendment and Second Preliminary Amended are enclosed.
3. ☐ Cancel in this application original claims of the prior application before calculating the filing fee. At least one original independent claim is retained to complete the prior application introduced new matter therein.
4. ☒ The filing fee is calculated on the basis of the claims existing in the prior application as mentioned at 1, 2 and 3 above.

FOR	NUMBER FILED	NUMBER EXTRA	RATE	CALCULATIONS
TOTAL CLAIMS	35	15 (in excess of 20 and also in excess of claims filed in original patent)	x \$18.00 =	\$270.00
INDEPENDENT CLAIMS	5	3 (number of new independent claims)	x \$78.00 =	\$234.00
MULTIPLE DEPENDENT CLAIM(S) (if applicable)			x \$260.00 =	
BASIC FEE				\$760.00
TOTAL OF ABOVE CALCULATIONS=				+\$ 1264.00
REDUCTION BY 1/4 FOR FILING BY SMALL ENTITY (Note 37 C.F.R. 1.9, 1.27, 1.28). IF APPLICABLE, VERIFIED STATEMENT MUST BE ATTACHED.				
TOTAL =				\$ 1264.00

5. ☒ The Commissioner is hereby authorized to charge fees under 37 C.F.R. § 1.16 and § 1.17 which may be required, or credit any overpayment to Deposit Account No. 50-0206.
6. ☐ Please charge \$ to Applicant's Deposit Account No. 50-0206 (attached is a copy of authorization to charge Applicant's Deposit Account).

7. ☒ Amend the specification by replacing the first sentence with: --This application is a continuation of application Serial No. 09/637,339, filed on August 11, 2000, now abandoned.--
8. ☐ A verified statement to establish small entity status under 37 C.F.R. §§ 1.9 and 1.27  
☐ is enclosed.  
☐ was filed in prior application Serial No. \_\_\_\_\_ and such status is still proper and desired (37 C.F.R. § 1.28(a)).
9. ☐ Priority of foreign Application Nos. \_\_\_\_\_, filed on, is claimed under 35 U.S.C. § 119.  
☐ A certified copy of each was filed in prior Application Serial No. \_\_\_\_\_ filed \_\_\_\_\_.
10. ☐ New formal drawings are enclosed.
11. ☒ The prior application is assigned of record to Linvatec Corporation.
12. ☐ The power of attorney in the prior application is to Hunton & Williams.  
a. ☐ The power of attorney appears in the original papers in the prior application.  
b. ☐ Since the power does not appear in the original papers, a copy of the power in the prior application is enclosed.  
c. ☒ Recognize as Associate Attorneys:

Stanislaus Aksman, Registration No. 28,562; Jennifer A. Albert, Registration No. 32,012; Thomas E. Anderson, Registration No. 37,063; David E. Baker, Registration No. 42,285; Scott D. Balderston, Registration No. 35,436; Carl L. Benson, Registration No. 38,378; Bradford Blaise, Registration No. P47,429; Thomas M. Blasey, Registration No. 33,475; Brian M. Buroker, Registration No. 39,125; Christopher C. Campbell, Registration No. 37,291; Robin C. Clark, Registration No. 40,956; Christopher J. Cuneo, Registration No. 42,450; Patrick A. Doody, Registration No. 35,022; Kevin T. Duncan, Registration No. 41,495; David D'Zurilla, Registration No. 36,776; Ozzie Farres, Registration No. 43,606; Nancy Flint, Registration No., 46,704; Christopher J. Forstner, Registration No. 46,049; James G. Gatto, Registration No. 32,694; George Georgellis, Registration No. 43,632; Paramita Ghosh, Registration No., 42,806; Paul D. Golian, Registration No. 42,591; Charles F. Hollis, Registration No. 40,650; David M. Huntley, Registration No. 40,309; Nancy J. Jensen, Registration No. 45,913; Herbert V. Kerner, Registration No. 42,721; Steven P. Klocinski, Registration No. 39,251; Jonathan D. Link, Registration No. 41,548; J. Michael Martinez, Registration No. 31,178; David H. Milligan, Registration No. 42,893; James R. Miner, Registration No. 40,444; Devin S. Morgan, Registration No. 45,562; Kerry H. Owens, Registration No. 37,412; Andrew J. Ririe, Registration No. 45,597; Robert M. Schulman, Registration No. 31,196; Thomas J. Scott, Jr., Registration No. 27,836; 647; Stuart I. Smith, Registration No. 42,159; Yisun Song, Registration No. 44,487; Raphael A. Valencia, Registration No. 43,216; Rene' Vazquez, Registration No. 38,647; and Scott F. Yarnell, Registration No. 45,245.

- d. ☒ Please remove as power of attorney:

Bryan K. Phillips, Registration No. 46,990, Merchant & Gould P.C., P.O. Box 2903, Minneapolis, MN 55402-0903, and other members and associates of Merchant & Gould, P.C.

13. ☐ Enclosed is an Associate Power of Attorney to the Undersigned Counsel.
14. ☐ Also enclosed: An INFORMATION DISCLOSURE STATEMENT. Attached are Forms PTO-1449 listing all of the documents cited by Applicants and the PTO in the parent application(s) relied upon 35 U.S.C. 120. Per Rule 98(d) copies of those documents are not required now. Please consider these documents and advise that they have been considered in this new application by returning a copy of the enclosed Forms PTO-1449 with the Examiner's initials in the left column per M.P.E.P. 609.
15. ☒ Address all future communications to:  
HUNTON & WILLIAMS  
ATTN: PATRICK A. DOODY  
1900 K STREET, N.W.  
WASHINGTON, DC 20006  
(TEL.) (202) 955 1500  
(FAX) (202) 778-2201

The undersigned further declares that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code

and that willful false statements may jeopardize the validity of the applications or any patent issuing thereon.

Dated: 3/5/2001

By: 

Patrick A. Doody

LAW OFFICES  
HUNTON & WILLIAMS  
1900 K STREET, N.W., SUITE 1200  
WASHINGTON, D.C. 20006-1109  
(202) 955-1500

REISSUE PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: James F. Pitzen et al. Examiner:  
Patent No.: 5,792,573 Group Art Unit: 1111  
Assignee: Linvatec Corporation  
Filed: July 24, 1996 Docket No.: 5809.263-US-RE  
Title: RECHARGEABLE BATTERY ADAPTED TO BE ATTACHED TO  
ORTHOPEDIC DEVICE

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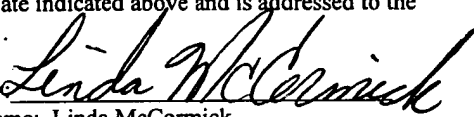
CERTIFICATE UNDER 37 CFR 1.10

'Express Mail' mailing label number: EL488196274US

Date of Deposit: 11 August 2000

I hereby certify that this correspondence is being deposited with the United States Postal Service 'Express Mail Post Office To Addressee' service under 37 CFR 1.10 on the date indicated above and is addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

By

  
Name: Linda McCormick

TRANSMITTAL OF REISSUE APPLICATION

Assistant Commissioner for Patents  
Box Reissue  
Washington, D.C. 20231

Dear Sir:

The application for reissue of U.S. Patent No. 5,792,573, entitled "RECHARGEABLE BATTERY ADAPTED TO BE ATTACHED TO ORTHOPEDIC DEVICE" granted to Pitzen et al., on August 11, 1998, includes the following:

1. Reissue Application including Specification, Claims, Abstract, and a copy of the drawings;
2. Preliminary Amendment Adding Broader Claims 13-35;
3. Reissue Declaration of James F. Pitzen, Jeffrey D. Smith, and Charles E. Alexson;

4. Certificate Under 37 C.F.R. § 3.73(b) and Consent of Assignee Under 37 C.F.R. §1.172;
5. Request for Transfer of Drawings from Original Patent to Reissue Application with attached drawings;
6. Offer to Surrender Under 37 C.F.R. § 1.178;
7. Basic Filing Fee Calculation under 37 C.F.R. § 1.16(h), (i) and (j):

CLAIMS AS FILED			
Number Filed	Number Extra	Rate	Basic Fee (37 C.F.R. 1.16(h)) \$690.00
Total Claims: 35	15 (in excess of 20 and also in excess of number of claims in original patent)	X \$18.00	\$270
Independent Claims: 5	3 (number of new independent claims)	X \$78.00	\$234
Filing Fee Calculation:			<u>\$1194</u>

8. A check for \$1194 is enclosed to cover the reissue filing fee. The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 13-2725. \
9. Return Receipt Postcard.

Respectfully submitted,

MERCHANT & GOULD P.C.  
P.O. Box 2903  
Minneapolis, MN 55402-0903  
(612) 332-5300



Date 11 August 2000

Bryan K. Phillips  
Reg. No. P-46,990

REISSUE PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: James F. Pitzen et al. Examiner:  
Patent No.: 5,792,573 Group Art Unit: 1111  
Assignee: Linvatec Corporation  
Filed: July 24, 1996 Docket No.: 5809.263-US-RE  
Title: RECHARGEABLE BATTERY ADAPTED TO BE ATTACHED TO  
ORTHOPEDIC DEVICE

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CERTIFICATE UNDER 37 CFR 1.10

'Express Mail' mailing label number: EL488196274US

Date of Deposit: 11 August 2000

I hereby certify that this correspondence is being deposited with the United States Postal Service 'Express Mail Post Office To Addressee' service under 37 CFR 1.10 on the date indicated above and is addressed to Box 7, Assistant Commissioner for Patents, Washington, D.C. 20231.

By: 

Name: Linda McCormick


**REQUEST FOR TRANSFER OF DRAWINGS FROM  
ORIGINAL PATENT TO REISSUE APPLICATION**

Assistant Commissioner for Patents  
Box Reissue  
Washington, D.C. 20231

Dear Sir:

Please transfer the drawings from original patent, U.S. Patent No. 5,792,573, for the invention entitled "RECHARGEABLE BATTERY ADAPTED TO BE ATTACHED TO ORTHOPEDIC DEVICE," granted to Pitzen et al. on August 11, 1998, to the reissue application, the specification of which is attached hereto. No changes whatsoever have been made to the

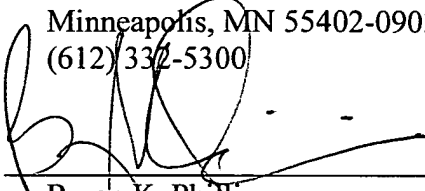


drawings. A copy of the printed drawings of the patent is submitted herewith in accordance with 37 C.F.R. § 1.174. 

Respectfully submitted,

MERCHANT & GOULD P.C.  
P.O. Box 2903  
Minneapolis, MN 55402-0903  
(612) 332-5300

Date: 11 August 2000

By:   
Bryan K. Phillips  
Reg. No. P-46,990